



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before **[30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB, within 30 days of this notice's publication, by either of the following methods. Please identify the comments by "OMB Control No. 3038-0092."

- By email addressed to: *OIRAsubmissions@omb.eop.gov* or
- By mail addressed to: the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street, NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the “Commission”) by either of the following methods. The copies should refer to “OMB Control No. 3038-0092.”

- Through the Commission’s Web site at <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Web site.
- By mail addressed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; or
- By Hand Delivery/Courier to the same address.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.¹ The Commission reserves the right, but shall have no obligation, to review, per-screen, filter, redact or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the

¹ 17 CFR 145.9.

Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

A copy of the supporting statements for the collection of information discussed herein may be obtained by visiting <http://RegInfo.gov>.

FOR FURTHER INFORMATION CONTACT: Christopher Hower, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418-6703; email: chower@cftc.gov, and refer to OMB Control No. 3038-0092.

SUPPLEMENTARY INFORMATION:

Title: Customer Clearing Documentation and Timing of Acceptance for Clearing (OMB Control No. 3038-0092). This is a request for extension of a currently approved information collection.

Abstract: Section 4d(c) of the CEA, as amended by the Dodd-Frank Act, directs the Commission to require futures commission merchants to implement conflict of interest procedures that address such issues the Commission determines to be appropriate. Similarly, section 4s(j)(5), as added by the Dodd-Frank Act, requires swap dealers and major swap participants to implement conflict of interest procedures that address such issues the Commission determines to be appropriate. Section 4s(j)(5) also requires swap dealers and major swap participants to ensure that any persons providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions from persons whose involvement in pricing, trading, or clearing activities might bias their judgment or contravene the core principle of open access. Section 4s(j)(6) of the CEA prohibits a swap dealer and major swap participant from adopting any process or taking any action that results in any unreasonable restraint

on trade or imposes any material anticompetitive burden on trading or clearing, unless necessary or appropriate to achieve the purposes of the Act. Section 2(h)(1)(B)(ii) of the CEA requires that derivatives clearing organization rules provide for the non-discriminatory clearing of swaps executed bilaterally or through an unaffiliated designated contract market or swap execution facility.

Pursuant to these provisions, the Commission adopted § 1.71(d)(1) relating to FCMs and § 23.605(d)(1) relating to swap dealers and major swap participants. These regulations prohibit swap dealers and major swap participants from interfering or attempting to influence the decisions of affiliated FCMs with regard to the provision of clearing services and activities and prohibit FCMs from permitting them to do so. Also, § 23.607 prohibits a swap dealer and major swap participant from adopting any process or taking any action that results in any unreasonable restraint on trade or imposes any material anticompetitive burden on trading or clearing, unless necessary or appropriate to achieve the purposes of the Act. Additionally, § 39.12(b)(2) requires that derivatives clearing organization rules provide for the non-discriminatory clearing of swaps executed bilaterally or through an unaffiliated designated contract market or swap execution facility. Sections 1.71(f) and 23.605(f) provide that records be maintained pursuant to Commission Regulation 1.31.

As discussed further below, the additional information collection burden arising from the proposed regulations primarily is restricted to the costs associated with the affected registrants' obligation to maintain records related to clearing documentation between the customer and the customer's clearing member.

The information collection obligations imposed by the regulations are necessary to implement certain provisions of the CEA, including ensuring that registrants exercise effective risk management and for the efficient operation of trading venues among SDs, MSPs, FCMs, and DCOs.

Burden Statement: The Commission is revising its estimate of the burden for this collection, which include 101 Swap Dealers, Major Swap Participants, 65 Futures Commission Merchants and 16 Derivatives Clearing Organizations. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 182.

Estimated Average Burden Hours Per Respondent: 18.1 hours.

Estimated Total Annual Burden Hours: 3,296 hours.

Frequency of Collection: Daily, annually, or as needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: August 22, 2018

Christopher Kirkpatrick,

Secretary of the Commission.

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